

# Florida

## Solar Rights Law

*F*lorida law forbids ordinances, deed restrictions, covenants, or similar binding agreements from prohibiting solar equipment use. Under this law, a homeowner may not be denied - by "any entity granted the power or right in any deed restriction, covenant or similar binding agreement to approve, forbid, control, or direct alteration of property..." - permission to install a solar collector, clothesline, or other energy device using renewable resources.



While a homeowner cannot be prevented from installing a solar energy system, certain restrictions may be imposed without violating the law. However, those restrictions must be reasonable, not arbitrary, and uniformly imposed on homeowners in the subdivision. The restrictions cannot act to impair the performance of a solar system or it may be seen as "effectively" prohibiting solar.

The law specifically prohibits a homeowner association from preventing the installation of solar collectors on the roof. The association may determine where on the roof the collectors may be installed, so long as the installation is within the area required for its effective operation, that is, facing south, or within 45° east or west of due south. The association is, thereby, limited in imposing requirements which would effectively restrict the system's operating efficiency or increase the installation cost. As such, requirements for screening the system from view, whether by trees or fences, ground-mounting, or limiting visibility from the street, are contrary to the spirit and letter of the law. Requiring the system to conform to a certain color (i.e., blending with the roof color) also is prohibited by the statute, since the collector surface must be black to effectively absorb the sun's heat (and, in fact, is the only available material on the market).

There has been some litigation with respect to the applicability of Section 163.04. However, most cases have been resolved through mediation. One such case involved the installation of a solar pool heater on the roof of a home. In

this case, the association filed an injunction requesting removal of the rooftop system and instead required that the system be ground-mounted. This change would have impaired the system's operating efficiency; and the yard space was insufficient to allow ground mounting. The parties settled, with the homeowner's prevailing on the issue of roof mounting. Although the collectors were relocated to a less conspicuous area on the roof, more panels were added to compensate for the loss of system efficiency.

Another case dealt with the denial of a residential pool heating system. This case was decided in favor of the association based on the sole issue of whether Section 163.04 applied to homeowner associations. The court held that the law did not apply to homeowner associations. Subsequently, the law was amended to specifically include actions taken by homeowner associations.

It is important to seek the approval of a homeowners association prior to the installation of a solar system. Section 163.04 does not waive the need for association approval if it is required by the governing documents.

